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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/722,105	11/27/2000	Frank F. Meijer	85773-353	4615

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EXAMINER

FOSTER, ROLAND G

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

9/3

Office Action Summary	Application No.	Applicant(s)
	09/722,105	MEIJER ET AL.
	Examiner	Art Unit
	Roland G. Foster	2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 November 2000.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2,4-9 and 11-14 is/are rejected.
- 7) Claim(s) 3,10 and 15 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4-9, and 11-14 are rejected under 35 U.S.C. 102(E) as being anticipated by Bilder (U.S. Patent No. 6,400,804 B1) (hereinafter “Bilder”).

With respect to claim 1, Bilder discloses an on-hold activity selection device 114 (connection controller) that sets up a media path to allow a user (on-hold party) at one telephone terminal 104 to receive audio information from audio sources (on-hold activities) such as music and prerecorded messages (abstract and Fig. 2).¹ The controller receives signaling information (Fig. 4, step 405) indicative of the type of audio information (on-hold activities) desired by the user (on-hold party) at telephone terminal 104. The called party at terminal 102 originally placed the caller at terminal 104 on hold (col. 3, lines 1-5), thus terminal 104 is a “known” terminal (telephone) (see also col. 7, lines 25-30). The selection device 114 includes a directory of audio sources (listing of a plurality of on-hold activities stored in memory 202) (Fig. 2 and col. 4, line 65 – col. 5, line 12). The selection device 114 also includes a processing unit (controller 200) to search the directory of audio sources (listing) to select the audio source (on-hold activity) desired

by the user (i.e., corresponding to the code entered by the user) (col. 5, lines 1-52). Based on the search, the selection device 114 (connection controller) generates control signals that that instruct the audio source (on-hold activity) to establish a media path between the selected audio source and the terminal (Fig. 4, step 406 and col. 7, lines 5-15). Any control signals to the audio source would be transmitted via a selection device 114 (connection controller) “output” that “releases” the control signals onto the telephone network (Fig. 1).

Claim 8 differs substantively from claim 1 in that claim 8 is directed to a program that when executed performs functions equivalent to the functions performed by the connection controller in claim 1. However, the connection controller is a computer based system (Fig. 2) and thus executes a program in order to perform the disclosed functions. Therefore, see the claim 1 rejection for further details.

Claims 12 and 13 differ substantively from claim 1 in that claims 12 and 13 recite various means and method steps that perform functions equivalent to the controller component functions recited in claim 1. Therefore, see the claim 1 rejection for further details.

With respect to claims 2, 9, and 14, the terminals may be landline telephone connected to the telephone network or computers connected to the Internet (abstract and col. 2, lines 10-40). Thus, the terminal resides in a circuit-switched, network domain or a packet-switched, network domain. The processing unit would utilize information indicative of the domain (e.g., Internet

¹ Interpreting the audio source as an on-hold activity is consistent with the applicant’s specification (e.g., page 10).

communication protocols in the Internet domain or telephone communication protocols in the telephone domain) in order to select and communicate with an Internet or telephonic audio source that is suitable for the user, who originally selected the desired source (as discussed in the claim 1 rejection above).

With respect to claims 4 and 5, the audio source comprises on-hold music (abstract), which inherently comprises tones.

With respect to claim 6, see the abstract.

With respect to claim 7, see the abstract, last sentence.

With respect to claim 11, the PBX 116 comprises a coupled, activity selection device 114 (connection controller). This interpretation is consistent with the applicant's specification, which illustrates a PBX "system" (Fig. 1 and pages 4 and 5) that spans different network domains and comprises discretely coupled components.

Allowable Subject Matter

Claims 3, 10, and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Examiner's Reasons for Indicating Allowable Subject Matter

Claims 3, 10, and 15 are directed to a detailed connection controller system for setting up a media path to allow a user at one terminal to receive audio information from an audio source. The system comprises the specific feature of selecting the audio source residing in the same network domain as the known terminal when the audio sources indicate two or more audio sources suitable for providing the audio information.

The closest prior art of record is Bilder as applied above, which fails to disclose the specific feature.

The remaining prior art of record fails to teach or fairly suggest substantially modifying Bilder with this specific feature in order to arrive at the invention as claimed in detail by the applicant.

The above reasons for allowance are based on the claims as presently set forth in their totality. The above reasons for allowance should not be interpreted as indicating that amended claims broadly reciting certain limitations discussed in the above reasons for allowance would be allowable. A more detailed reasons for allowance may be set forth in a subsequent Notice of Allowance if and when all claims in the application are put into a condition for allowance.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roland Foster whose telephone number is (703) 305-1491. The examiner can normally be reached on Monday through Friday from 9:00 a.m. to 5:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan S. Tsang, can be reached on (703) 305-4895. The fax phone number for this group is (703) 872-9309.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is (703) 306-0377.



Roland G. Foster
Primary Patent Examiner
November 10, 2004